

INSTRUCTIONSpecial Education: Surrogate Parents**A. Assignment**

1. A surrogate parent shall be assigned to a child suspected of being or determined to be handicapped when:
 - a. No parent can be identified; or
 - b. After reasonable efforts, the whereabouts of a parent cannot be discovered; or
 - c. The child is a ward of the State.
2. "Parent" includes a parent, guardian, or individual acting as a parent in the absence of a parent or guardian.
3. Whenever it is determined that a surrogate parent shall be assigned, the superintendent or his designee shall make the assignment consistent with the following:

An individual appointed must be currently eligible to serve as a surrogate parent. Requirements for individuals to be considered as a surrogate parent include the following: (1) has no interest that conflicts with the interest of the child represented, (2) has completed a State approved training session prior to representing the child and has knowledge and skills that ensure adequate representation, (3) is not an employee of a public agency which is involved in the education or care of the child, (4) is an adult and legal citizen of the United States and, (5) resides in the same general geographic area as the child whenever possible. (The supervisor of special education shall compile a list of surrogate parents, consisting of those people who are otherwise eligible to be assigned as surrogate parents and who have expressed a willingness to

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serve in such a capacity. Such list shall be updated annually). However, an individual who is not on the surrogate parent list may be assigned. In each case, the needs of the individual child and the availability of persons familiar with the child shall be considered prior to assignment.

4. Following the determination of the person to be assigned as surrogate parent, the superintendent or his designee shall notify, in writing:
 - a. the handicapped student, as appropriate to the handicap;
 - b. the surrogate parent;
 - c. the person or public agency charged with responsibility for the child; and
 - d. the Division of Special Education and Support Services, Virginia Department of Education.

B. Rights of Surrogate Parents

The surrogate parent, when representing the child's educational interests, has the same rights as those accorded to parents or guardians of children determined or believed to be handicapped, as follows:

1. To inspect and review all the child's education records, upon request.
2. To challenge the accuracy of information in the child's record.
3. To provide written consent before the school division may proceed in:
 - a. preplacement evaluations;

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- B. Rights of Surrogate Parents (continued)
- b. child's initial placement in a program providing special education or related services;
 - c. re-evaluations, if State law requires said permissions;
 - d. any changes in the identification, evaluation, or educational placement of the child.
 - 4. To request an independent evaluation of the child at public expense under specific conditions as defined in State regulations.
 - 5. To be informed by the school division of any low-cost legal and other relevant services available in the area when:
 - 6. To receive all communications from the school division, including notice and request for consent, in the native language of the home and in a manner understandable to the general public.
 - 7. To initiate a due-process hearing as State guidelines would deem appropriate if the surrogate parent disagrees when the school division:
 - a. proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child; or
 - b. refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

INSTRUCTIONSpecial Education: Surrogate Parents (continued)**B. Rights of Surrogate Parents (continued)**

8. To all procedural safeguards at such hearing, including:
 - a. the right to present evidence;
 - b. the right to cross-examine witnesses;
 - c. the right to have the child present;
 - d. the right to have the impartial due-process hearing open to the public; and
 - e. the right to receive formal written notice of the decision rendered by the hearing officer.

C. Responsibilities of Surrogate Parents

1. Representing the child in all matters relating to the identification, evaluation, and educational placement and the provision of a free appropriate public education, the surrogate parent assumes the following responsibilities:
 - a. to act in place of a parent for the child concerning his or her educational program;
 - b. to receive the notice(s) and give (or refuse) consent to evaluation or placement of the child;
 - c. to attend planning conferences to develop an individual education program (IEP); and
 - d. to become familiar with appropriate procedures for due process, confidentiality, and access to the child's records.
2. The surrogate parent is required to have the knowledge and skills to execute these responsibilities.

INSTRUCTIONSpecial Education: Surrogate Parents (continued)D. Duration and Change of Assignment

1. The surrogate parent shall continue to serve for each child to whom that person is assigned until one of the following shall occur:
 - a. the surrogate parent no longer feels he or she is able to continue in the function of surrogate parent or becomes ineligible to serve as such;
 - b. the child reaches the age of majority (unless legally determined to be incapable of handling his/her own affairs);
 - c. the child is found to be no longer eligible for special education services (except where termination of special education services is being contested);
 - d. legal guardianship is transferred to a person who is able to carry out the role of the parent or the parent is located;
 - e. it is determined that the surrogate parent is not functioning effectively as a surrogate parent.
2. The eligibility of all surrogate parents shall be reviewed annually.